



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1 and 175

46 CFR Part 25

[Docket No. USCG-2018-0099]

RIN 1625-AC41

Fire Protection for Recreational Vessels

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is amending fire extinguishing equipment regulations for recreational vessels that are propelled or controlled by propulsion machinery. This rule relieves owners of these recreational vessels from certain inspection, maintenance, and recordkeeping requirements that are more suited for commercial vessels. To make it easier to find these regulations, this rule also relocates the regulations to another part of the Code of Federal Regulations.

DATES: This final rule is effective [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2018-0099 in the "SEARCH" box and click "SEARCH."

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Jeffrey Decker, Office of Auxiliary and Boating Safety, Boating Safety Division (CG-BSX-2), Coast Guard; telephone 202-372-1507, email RBSinfo@uscg.mil.

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I. Abbreviations

CATEX	Categorical exclusion
COMDTINST	Commandant Instruction
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
Fire Protection rule	Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment (81 FR 48219, July 22, 2016)
FR	Federal Register
NBSAC	National Boating Safety Advisory Council
NFPA	National Fire Protection Association
NFPA 10	NFPA 10 Standard for Portable Fire Extinguishers, 2010 edition
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
RA	Regulatory analysis

II. Purpose, Basis, and Regulatory History

A. Purpose

The Coast Guard is amending portable fire extinguishing equipment requirements for recreational vessels that are propelled or controlled by propulsion machinery. We are relieving owners of these recreational vessels from certain inspection, maintenance, and recordkeeping requirements of National Fire Protection Association (NFPA) 10 (2010 edition). These requirements are more suited for commercial vessels. This rule does not alter standards for commercial vessels including vessels carrying passengers for hire, or have any effect on recreational vessels that do not use propulsion machinery.

This rule also moves fire extinguishing equipment rules for recreational vessels from subpart 25.30 (Fire Extinguishing Equipment) of subchapter C (Uninspected Vessels) of title 46 of the Code of Federal Regulations (CFR) to part 175 of subchapter S (Boating Safety) of title 33, where other recreational vessel rules already exist.

B. Basis and Regulatory History

The Secretary of Homeland Security is authorized by 46 U.S.C. 4302(a)(2) to prescribe regulations requiring the installation, carrying, or use of firefighting equipment and prohibiting the installation, carrying, or use of equipment that does not conform to the safety standards established under section 4302. The Secretary of Homeland Security has delegated this authority to the Coast Guard by Department of Homeland Security (DHS) Delegation No. 0170.1(II)(92)(b). The Commandant has redelegated this authority to the Assistant Commandant for Response Policy as described in 33 CFR 1.05-1(d).

The Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (FR) on May 13, 2019, “Fire Protection for Recreational Vessels.”¹ The NPRM

¹ 84 FR 20827, May 13, 2019.

proposed to relieve recreational vessel owners from the inspection, maintenance, and recordkeeping requirements of NFPA 10 and to consolidate recreational boating safety requirements into 33 CFR chapter I, subchapter S. Instead of applying NFPA 10 and requiring monthly visual inspections, annual maintenance, and recordkeeping, we proposed that portable fire extinguishers on recreational vessels be maintained in “good and serviceable” condition. The NPRM solicited comments and provided a 60-day comment period that ended on July 12, 2019. Based on those comments, we have made changes in this final rule, as discussed in section IV.

III. Background

On July 22, 2016, the Coast Guard published the final rule, “Harmonization Standards for Fire Protection, Detection, and Extinguishing Equipment” (the “Fire Protection rule”) in the **Federal Register**.² The Fire Protection rule revised Coast Guard fire safety requirements for uninspected vessels (46 CFR chapter I, subchapter C) to meet international and common industry standards. Among the revisions, the Coast Guard required vessel owners to comply with NFPA 10.³ This standard requires vessel owners and operators to complete monthly visual inspections of portable fire extinguishers,⁴ perform annual maintenance of portable fire extinguishers,⁵ and maintain records of the inspections and maintenance.⁶ The Coast Guard allowed the required monthly inspections to be carried out by the vessel owner, operator, person-in-charge, or a designated member of the crew, rather than by a certified person as required in NFPA 10.⁷ The Fire Protection rule also allowed these individuals to perform annual maintenance on non-rechargeable (also known as “disposable”) extinguishers but retained the NFPA 10 requirement that rechargeable extinguishers be maintained by a certified person such as a licensed servicing

² 81 FR 48219, July 22, 2016 (effective August 22, 2016).

³ The NFPA is a non-profit organization that develops technical codes and consensus standards to eliminate death, injury, property, and economic loss due to fire, electrical, and related hazards. NFPA 10 lists requirements to ensure that portable fire extinguishers will work as intended to provide a first line of defense against fires of limited size.

⁴ NFPA 10 section 7.2.1.2.

⁵ NFPA 10 section 7.3.1.1.1.

⁶ NFPA 10 sections 7.2.4 and 7.3.3.

⁷ 33 CFR 145.01(b)(2).

agency.⁸

The only exception to these inspection, recordkeeping, and maintenance requirements was for extinguishers built before 1965, in which the Coast Guard maintained their previous and separate inspection and maintenance requirements specific to those types of extinguishers.⁹ The Coast Guard's changes to the inspection and maintenance requirements in the Fire Protection rule were intended to apply to all vessels, including recreational vessels, in order to align inspection and maintenance requirements with common industry practice for fire extinguisher maintenance.¹⁰ (The NPRM for this action stated that the NFPA 10 requirements were "unintentionally" applied to recreational boaters in 2016 by the Fire Protection rule. It would have been more correct to say that 2016 rule did not recognize the full burden on recreational vessels.) They were also intended to provide a more complete set of maintenance and inspection requirements than what currently existed in Coast Guard regulations for extinguishers manufactured since 1965.¹¹ In the regulatory analysis accompanying the Fire Protection rule, we stated that we did not anticipate recreational vessel owners would incur any additional costs due to these provisions.¹² After the rule published, however, we realized the requirements to visually inspect and maintain non-rechargeable fire extinguishers as described in NFPA 10, and to keep records of those activities in compliance with NFPA 10, actually do impose a burden on recreational vessel owners and operators.

On October 22, 2016, the National Boating Safety Advisory Council (NBSAC) recommended that the Coast Guard remove the NFPA 10 recordkeeping requirements from recreational vessels and consolidate recreational vessel fire protection and boating safety

⁸ 33 CFR 145.01(b) and NFPA section 7.1.2.1.

⁹ 46 CFR 25.30-10(h); 46 CFR 72.05-1(b).

¹⁰ 81 FR 48219, 48229 ("[UL 711 and NFPA 10:2010]...apply to all the affected populations carrying portable and semi-portable fire extinguishers listed in Table 4, including recreational vessel. These provisions eliminate a Coast Guard-specific rating system for fire extinguisher classifications in favor of the classifications specified in the relevant national industry standards.")

¹¹ *Id.*

¹² 81 FR 48219, 48230 (third column, lines 16–21), July 22, 2016.

requirements into 33 CFR chapter I, subchapter S (33 CFR parts 173–199).¹³

IV. Discussion of Comments and Changes

The Coast Guard received submissions from 14 commenters in response to the NPRM. In general, most commenters supported the proposed rule, but a few expressed reservations. We summarize and address these comments below.

A. National Fire Protection Association (NFPA) Comments

The NFPA is a private, not-for-profit organization. They published the NFPA 10 standard that the Coast Guard incorporated by reference into our regulations through the Fire Protection rule.

Removal of NFPA 10 Requirements.

The NFPA does not support the Coast Guard removing the NFPA 10 portable fire extinguisher inspection, maintenance, and recordkeeping requirements for recreational vessels. They are concerned that if the monthly inspection requirement is removed, vessel owners will not perform necessary inspections and maintenance. They recommend that the Coast Guard keep the NFPA 10 requirements for monthly inspection and recordkeeping to ensure that portable fire extinguishers on recreational vessels are in good working order.

We disagree with the NFPA’s position. The Coast Guard’s alternative “good and serviceable” standard, as provided for in this rule in 33 CFR 175.310, maintains safety preparedness standards while reducing prescriptive burdens on recreational vessel owners and operators. Under this standard, logged inspections are not required, but the owner or operator must ensure all fire extinguishers are “readily accessible” and in “good and serviceable” condition. In response to the comments on the NPRM, we have expanded the regulatory text to explain what “good and serviceable” means. This final rule clarifies that “good and serviceable” means that a portable fire extinguisher on board a recreational vessel:

¹³ NBSAC Resolution 2016-96-02 (available at <https://homeport.uscg.mil/Lists/Content/Attachments/498/NBSAC%2096%20Resolution%202016-96-02%20Fire%20Extinguishers%20-%20Signed.pdf>).

- Is charged, and indicates it is charged if the extinguisher has a pressure gauge reading or indicator;
- Has a pin lock that is firmly in place;
- Does not show visible signs of significant corrosion or damage; and
- Has a discharge nozzle that is clean and free of obstructions.

Thus, the “good and serviceable” standard of this rule maintains the substantive requirements of NFPA 10 without the monthly inspection and recordkeeping requirements. Prior to the Fire Protection rule, the Coast Guard had never required recreational boaters to maintain a record of inspection for any piece of safety equipment (such as personal flotation devices, visual distress signals, and so on). Because the Coast Guard is unaware of any empirical data showing fire-extinguisher failure to be a significant cause for concern on recreational vessels, and because the Coast Guard is unaware of any empirical data showing that maintaining these records has prevented fire-extinguisher failure, we do not believe that requiring boaters to maintain these records significantly increases public safety. This new standard will continue to ensure that portable fire extinguishers are in good working order and ready for immediate use without imposing unnecessary burdens on the public.

Burdensome Nature of Inspections.

The NFPA asserts that recordkeeping requirements for portable fire extinguisher inspections are not burdensome to recreational boaters. The Coast Guard disagrees because the NFPA requirements have the boat owner perform monthly inspections even when the vessel is not in use. The NFPA requirement does not relieve the recreational boat owner from performing monthly inspections when the vessel is in non-use, storage or winter layup. This is a change from how the boating public normally uses their vessels, and results in an unwarranted burden. Removing the NFPA 10 recordkeeping requirements will generate an estimated timesaving component of approximately 12 minutes per year per fire extinguisher (1 minute per month per fire extinguisher). This estimate only includes the cost to the boater of recording the fire

extinguisher's condition. It does not include the costs to the boater of traveling to the vessel when it is not in use. We did not estimate the travel costs because we do not have any data on the average travel time to their vessel when not in use. Additionally, we lack data on the number of months a vessel might be in use. See our response in section IV.B of this document for additional information on the burden estimate.

Relocation of the Requirements in the CFR.

The NFPA supports moving fire extinguishing requirements from 46 CFR 25 to 33 CFR 175.

B. Burden Estimates of NFPA Requirements on Recreational Boaters

Several commenters supported removing the NFPA 10 recordkeeping requirements; however, other commenters (including the NFPA) said these recordkeeping requirements should be retained for recreational vessels because they are not a burden to these boaters. The Coast Guard disagrees with retaining the recordkeeping requirements due to the time burden associated with NFPA 10's recordkeeping requirements. We estimate that removing this requirement will reduce recordkeeping burdens by 12 minutes per year per fire extinguisher (1 minute per month per fire extinguisher), plus travel time when the vessel is not in use. One commenter asserted that the Coast Guard's estimate of 12 minutes per year was too high because some boats are not in use all 12 months of the year and a more accurate burden estimate would be 6 to 8 minutes per year. We note that the monthly inspection requirement of NFPA 10 does not provide exceptions for when a boat is not in use, and, as a result, current regulations require 12 minutes per year of recordkeeping, plus travel time when the boat is not otherwise in use. However, 12 minutes is an estimated average and we recognize that some people may spend more time and some people may spend less time to comply with these recordkeeping requirements.

C. Vagueness of the Coast Guard's "Good and Serviceable" Standard

This rule requires portable fire extinguishers to be unexpired and in "good and serviceable" condition. Two commenters expressed concern that the phrase "good and

serviceable” is vague. The Coast Guard revised the proposed rule in response to these concerns, but notes that the phrase “good and serviceable” is already in use for portable fire extinguishers, such as in the existing provision in 46 CFR 25.30-10 for portable fire extinguishers built before 1965, and also in other sections of the CFR for both recreational vessels and commercial vessels such as in 46 CFR 25.30-10, 142.240, and 180.200. In response to these comments, we updated our regulatory text in 33 CFR 175.310(a) to elaborate further on the requirements. This final rule clarifies that “good and serviceable” means that a portable fire extinguisher:

- Is charged, and indicates it is charged if the extinguisher has a pressure gauge reading or indicator;
- Has a pin lock that is firmly in place;
- Does not show visible signs of significant corrosion or other damage; and
- Has a discharge nozzle that is clean and free of obstructions.

D. Health and Safety Risks

Three commenters expressed concern that removing the NFPA 10 inspection and recordkeeping requirements could lead to unsafe conditions. The Coast Guard is not aware of any evidence showing this change will decrease safety. Serious injury to recreational boaters (injury requiring medical care beyond first aid) resulting from portable fire extinguisher failure is rare. According to the Boating Accident Report Database, between 2008 and 2017 only three such injuries occurred, and no injuries are known to have been caused directly by equipment failure.¹⁴ Our alternative standard, as amended in this final rule (see 33 CFR 175.310), ensures that portable fire extinguishers on recreational vessels are not expired, readily accessible, and in good working order. We used the “good and serviceable” standard elsewhere in our regulations, without a decrease to safety.

E. Frequency of Portable Fire Extinguisher Inspections

¹⁴ <https://bard.knightpoint.systems/PublicInterface/Report1.aspx>.

The revised rule does not set a frequency at which vessel owners or operators must inspect fire extinguishers. One commenter stated that portable fire extinguishers on recreational vessels should be inspected at least once a year, and two commenters stated they should be inspected monthly. Under the Coast Guard's revised standard, a recreational vessel is in compliance only if the portable fire extinguishers are unexpired, readily accessible, and in "good and serviceable" condition. The Coast Guard believes that this will improve flexibility while maintaining safety, especially for vessels that may not be in use all year. The Coast Guard's primary concern is ensuring the safety of the boating public while the vessel is in use.

F. Relocation of Fire Extinguishing Requirements from 46 CFR to 33 CFR

Most commenters supported the move of regulations from 46 CFR part 25, subpart 25.30 to 33 CFR part 175, subpart E. One commenter disagreed, however, stating that title 33 of the CFR was relatively unmonitored and unmanaged compared to title 46. We disagree with the assertion that title 33 of the CFR is relatively unmonitored. The Coast Guard enforces the agency's regulations regardless of where they are in the CFR.

G. Classes of Portable Fire Extinguishers Required to be Carried

The Coast Guard currently requires approved Class B portable fire extinguishers to be carried on board recreational vessels. Portable fire extinguishers with a Class B rating are effective against flammable liquid fires such as gasoline, petroleum, greases, oils, oil-based paints, solvents, and alcohols. Multiple commenters stated that the Coast Guard should require either additional single-class portable fire extinguishers (such as Class A or Class C) or combination-class portable fire extinguishers (such as A-B-C) on all recreational vessels to adequately address other types of fires. Class A fires involve ordinary combustibles such as trash, wood, and paper, whereas Class C fires involve energized electrical sources such as computers, servers, motors, transformers, and appliances. The Coast Guard does not agree that portable fire extinguishers capable of extinguishing Class A and Class C fires should be required to be carried on board recreational vessels. The predominant fire hazards for recreational vessels

come from fuel and fuel vapors, which are Class B hazards.¹⁵ Moreover, approved Class B extinguishers already have additional ratings to extinguish both Class A and Class C fires.¹⁶

Over the past 50 years, since the Federal Boat Safety Act of 1971 established the current Coast Guard fire extinguisher carriage requirements, we have found no data showing the current fire extinguisher requirements for recreational boating are insufficient. Previous Coast Guard requirements for the hand-held B-I or B-II (and the current requirements for 5-B and 20-B) approved portable fire extinguishers have shown to be an acceptable minimum standard for the recreational boater. Additionally, strict Federal recreational boat-building requirements, such as backfire flame control, ventilation, and electrical and mechanical national safety and manufacturing standards, also reduce the probability or severity of boat fires.

H. Number of Portable Fire Extinguishers Required to be Carried

One commenter stated that the Coast Guard should require more portable fire extinguishers on recreational vessels. This comment is outside the scope of this rulemaking. As previously stated, there is no data showing that the current fire extinguisher requirements for recreational boating are insufficient.

I. Standard for Fixed Extinguishing Systems

One commenter expressed concern that the proposal would eliminate a standard for maintaining fixed fire extinguishing systems on recreational vessels. NFPA 10 applies only to portable fire extinguishers. The removal of NFPA 10's application to recreational vessels through this final rule will neither impose nor remove maintenance standards for fixed fire extinguishing systems.

J. Requirements for Coast Guard-Documented Vessels and State-Registered Vessels

¹⁵ The USCG Boating Accident Report Database (BARD) (out of the 1,175 fire/explosion related incidents over the 5-year period 2015–2019, for which cause was known, 68 percent (n=799) of them were fuel-related).

¹⁶ The Coast Guard's review of listed portable fire extinguishers by Underwriters Laboratory indicates there are no listed portable fire extinguishers that have only a B rating; all B-rated portable fire extinguishers have additional A, C, or both capabilities.

One commenter asked the Coast Guard to clearly distinguish any differences in requirements between Coast Guard-documented recreational vessels and state-registered vessels in this rule. This rule does not contain any different requirements for state-registered vessels and Coast Guard-documented recreational vessels. Longstanding carriage requirements for portable fire extinguishers are based on specific criteria, including the type of fuel, storage of fuel (portable or fixed and installed), type of construction (open or closed), and length of vessel. This rulemaking does not make changes to those requirements.

K. Need for Greater Public Awareness

A few commenters stated that there is a need for greater public awareness of portable fire extinguisher safety and boating safety in general. One commenter recommended awareness campaigns to highlight how to use fire suppression equipment. One commenter stated that there was inadequate public awareness of best fire safety practices in the recreational boating community. One commenter stated that Federal boating safety awareness materials could be improved, although the commenter did not provide specific examples. The Coast Guard works with non-profit boating safety organizations and our state boating partners to distribute information to the recreational boating public.¹⁷ The Coast Guard will consider what other information campaigns could be appropriate. The Boating Safety Division in the Coast Guard's Office of Auxiliary and Boating Safety is dedicated to reducing loss of life, injuries, and property damage that occurs on U.S. waterways by improving the knowledge, skill, and abilities of recreational boaters.

V. Discussion of the Rule

A. What This Rule Does

The goal of this rule is to move recreational vessel fire extinguishing equipment requirements from the commercial vessel fire extinguishing equipment requirements section in title 46 of the CFR and to consolidate recreational vessel-specific requirements into one part in

¹⁷ www.uscgboating.org.

title 33 of the CFR, which will not contain the NFPA 10 visual inspection, annual maintenance, and recordkeeping requirements for recreational vessels. This change affects only recreational vessels with propulsion machinery and will not affect commercial vessels, including vessels carrying passengers for hire.

1. Transfer of Recreational Vessel Fire Extinguishing Equipment Regulations from 46 CFR to 33 CFR.

The Coast Guard is creating a new subpart E (Fire Protection Equipment) under part 175 (Equipment Requirements) in 33 CFR chapter I, subchapter S (Boating Safety) for fire extinguishing equipment requirements for recreational vessels. This consolidates these regulations into part 175 where other recreational vessel-specific rules are located. The fire extinguishing equipment requirements added to subpart E will be the same as in current 46 CFR subpart 25.30, but will be modified as discussed in sections V.A(2) and (3) of this document. The Coast Guard is limiting the applicability of this new subpart to recreational vessels, as defined in 33 CFR 175.3, which are propelled or controlled by propulsion machinery. The Coast Guard is also revising the applicability section in 46 CFR 25.30-1 so that the fire extinguishing equipment regulations in subpart 25.30 will not apply to recreational vessels as defined in 33 CFR 175.3. We are only changing the applicability of the fire extinguishing equipment regulations in 46 CFR part 25, subpart 25.30; we are not changing the applicability of any other requirements in 46 CFR part 25. The other requirements in 46 CFR part 25 (such as life preservers, navigation lights, and ventilation) are not being changed.

2. Removal of Requirement for Recreational Vessels to Comply with NFPA 10.

The Coast Guard is modifying the fire extinguishing equipment requirements added to 33 CFR part 175, subpart E to remove the requirement for recreational vessels to comply with NFPA 10. Instead of applying the NFPA 10 requirements, we are requiring that portable fire extinguishers be maintained in “good and serviceable” condition. Both the “good and serviceable” standard and the NFPA 10 requirements (monthly visual inspection, annual

maintenance, and recordkeeping) exist to achieve the same result, namely that portable and semi-portable fire extinguishers be in working condition in the event of a fire. However, the NFPA 10 requirements are very specific and require burdensome recordkeeping. The new “good and serviceable” standard relieves owners and operators of recreational vessels of following the specifics of NFPA 10 while allowing them flexibility in how to achieve the same result. By doing so, the Coast Guard is making it easier and less costly for recreational vessel owners to maintain the fire protection equipment on their vessel.

3. Clarifying Edits, Updating Outdated Text, and Administrative Edits.

The Coast Guard is modifying the fire extinguishing equipment requirements added to 33 CFR part 175, subpart E to clarify the regulatory language, update outdated information, and make technical amendments.

We are making the following edits and updates:

- Removing the reference to the no longer published Commandant Instruction (COMDTINST) M16714.3 (new 33 CFR 175.305);
- Changing the terms “motorboats” and “motor vessels,” as currently used in subpart 25.30, to the clearer terms “recreational vessels 65 feet and less in length” and “recreational vessels more than 65 feet in length,” respectively. This change aligns the language used in the new subpart E with the terminology already used in 33 CFR part 175, and reinforces the intent of subpart E to apply the requirements only to recreational vessels, and not all motorboats and motor vessels. It also makes the distinction between the two vessel size categories clearer, allowing readers to more easily find the fire extinguishing equipment requirements appropriate for a particular type of vessel;
- Adding new language to clarify acronyms and update cross-references to 46 CFR subpart 25.30. For example, we are replacing the “B.H.P.” acronym with “brake

horsepower” and updating references to point clearly towards 46 CFR instead of chapter I; and

- Modifying the language moved from 46 CFR subpart 25.30 to refer to recreational vessels by model years, as opposed to contracting or manufacturing dates. The latter terms are applicable to commercial vessels only. This change allows the recreational boating community to more easily identify their vessel requirements and aligns with industry and market naming practices.

This rule does not change any exemptions that already apply to recreational vessels. The Coast Guard is retaining all the existing recreational fire extinguishing equipment exemptions, such as those for vessels manufactured before August 22, 2016, and the fire extinguishing equipment exemptions for vessels manufactured before November 19, 1952, as provided in 46 CFR 25.30-80 and 46 CFR 25.30-90. Where we previously allowed exemptions for vessels manufactured or contracted before August 22, 2016, we will now apply the same exemptions to recreational vessels with model years before 2017. Where regulations previously exempted vessels manufactured or contracted before November 19, 1952, we will now apply those exemptions to recreational vessels with model years before 1953. The 2016 exemption is part of the transition from old Coast Guard weight-based ratings, to Underwriter Laboratory (UL) performance-based ratings, and grandfathered existing extinguishers on boats so they do not have to replace their existing extinguishers. However, the 2016 exemption still requires new extinguishers to meet the new requirements. Changing or not allowing this exemption would result in a burden for the recreational boater community.

We are also retaining the exemption in 46 CFR 25.30-20(a) that allows recreational vessels less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, to not have to carry portable fire extinguishers if the construction of the vessel excludes the entrapment of explosive or flammable gases or vapors.

B. Changes from the Proposed Rule

Clerical Amendments

The Coast Guard made several small stylistic and clerical amendments. In 33 CFR 1.08-1(a)(8), we added a cross reference to 33 CFR part 175, subpart E, to reflect the relocation and renumbering of regulations made by this final rule. No substantive requirements result from this change. We made corrections to capitalization, changing “Figure” to “figure” and “Table” to “table” when these words appear in regulatory text. These changes appear in 33 CFR 175.320(a)(1), Note 1 to Figure 1 to 33 CFR 175.320(a), Note 2 to Figure 2 to 33 CFR 175.320(a), 33 CFR 175.320(b)(1), 33 CFR 175.320(b)(2), 33 CFR 175.320(c), and 33 CFR 175.380(a). We also made a small stylistic change to word requirements in the singular rather than the plural for greater clarity. We changed “Recreational vessels” to “A recreational vessel” and amended the sentence structure accordingly where necessary in 33 CFR 175.320(a)(1), 33 CFR 175.320(b)(1), and 33 CFR 175.390.

“Good and Serviceable” Standard

Based on public comments, the Coast Guard reorganized the fire extinguisher requirements in 33 CFR 175.310, clarified the phrase “good and serviceable,” and removed the requirements that extinguishers be maintained in accordance with manufacturer’s instructions. In order to clarify the phrase “good and serviceable,” we added that the fire extinguisher lock pin must firmly be in place, the discharge nozzle be clean and free of obstruction, the extinguisher must not show signs of significant corrosion or damage and the portable fire extinguisher must be readily accessible. The Coast Guard has a long history of using the phrase “good and serviceable” for portable fire extinguishers, such as in the existing 46 CFR 25.30-10 for portable fire extinguishers built before 1965, and also in other sections of the CFR for both recreational vessels and commercial vessels such as 46 CFR 25.30-10, 142.240, or 180.200.

Modified Definition of “Model Year”

We have modified the definition for “model year” in 33 CFR 175.3 from what we proposed in the NPRM. The definition in the NPRM had the model year run from August 1st

until July 31st of the following year. The revised definition has the model year run from June 1st until July 31st of the following year. This change was made to conform with the definition of “model year” found in 46 U.S.C. 4302(e)(1).

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. A regulatory analysis (RA) with details on the estimated cost savings of this rule follows.

This final rule removes requirements imposed by the 2016 Fire Protection rule. The Fire Protection rule’s requirements for fire extinguishing equipment in 46 CFR subpart 25.30 of chapter I, subchapter C (Uninspected Vessels) applied the NFPA 10 monthly visual inspection, annual maintenance, and recordkeeping requirements to both recreational and commercial vessels. This final rule removes the NFPA 10 recordkeeping and monthly visual inspection requirements together with the requirement for annual maintenance from the recreational vessel community. Instead of the prescriptive monthly inspection requirement, including a recordkeeping component, the Coast Guard is promulgating this final rule, which contains

performance standards to require that portable fire extinguishers be kept in a “good and serviceable” condition without any recordkeeping requirement. By doing so, the Coast Guard is making it easier for recreational vessel owners to maintain their fire protection equipment. The final rule does not change the fire extinguishing equipment requirements for commercial vessels in 46 CFR subpart 25.30 or any other recreational vessel requirements.

The Coast Guard published a proposed rule on May 13, 2019. We made some changes to the regulatory analysis because of the comments received during the comment period for the NPRM. These revisions did not affect the conclusions or estimates made by the RA. We reorganized and modified the regulatory language that appeared in the NPRM to improve clarity in this final rule. The Coast Guard is amending regulatory language in new 46 CFR 175.310 (a) and (b). The Coast Guard added the language “on board and readily accessible” into section 175.310(a)(1). We introduced new language into section 175.310(a)(4) to specify the meaning of “good and serviceable.” The regulatory assessment of costs and benefits of the NPRM remains unchanged. Table 1 summarizes the changes to the regulatory text from the proposed rule to this final rule and the resulting impact on the regulatory analysis.

Table 1: Changes from NPRM to Final Rule

NPRM’s Regulatory Text	Final Rule’s Regulatory Text	Resulting Impact on the RA
33 CFR 1.08-1(a)(8) 46 CFR 25.30 fire extinguishers;	33 CFR 1.08-1(a)(8) 46 CFR subpart 25.30, Fire Extinguishing Equipment and 33 CFR part 175, subpart E, Fire Protection Equipment;	No impact. Cross-references updated/added to account for changes made by this final rule.
33 CFR 175.3 Definitions Model year means the period beginning August 1 of any year and ending on July 31 of the following year. Each model year is designated by the year in which it ends.	33 CFR 175.3 <i>Model year</i> means the period beginning June 1 of a year and ending on July 31 of the following year and being designated by the year in which it ends.	No impact. Amendment made to align definitions with those in 46 USC.
33 CFR 175.310(b)(1) Be carried aboard the vessel	33 CFR 175.310(a)(1) Be on board and readily accessible	No impact. Amendments made for consistency with other required safety equipment.
33 CFR 175.310(b)(4) Be maintained in accordance with the manufacturer's instructions	33 CFR 175.310(a)(4) Be maintained in “good and serviceable” working condition, meaning: (i) It has a pressure gauge reading or indicator in the operable range or position, if there is one; (ii) The lock pin is firmly in place;	No impact. Amendment is made to align the rulemaking with its intended non-prescriptive goal-based objective instead of the prescriptive regimen of NFPA 10 compliance. This amendment also aligns with the public comment request for further

	(iii) The discharge nozzle is clean and free of obstruction; and (iv) The portable fire extinguisher does not show visible signs of significant corrosion or damage.	clarity and maintains an equivalent preventative safety standard with NFPA 10.
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The Coast Guard promulgates regulations to protect the environment and human and marine life and to ensure safe boating practices. The Fire Protection rule applied the NFPA 10 monthly visual inspection, annual maintenance, and recordkeeping requirements to both recreational and commercial vessels. This created a new regulatory requirement for recreational vessels. This final rule will remove the NFPA 10 recordkeeping and monthly visual inspection requirements together with the requirement for annual maintenance from the recreational vessel community. The final rule replaces those NFPA 10 requirements with the requirement for portable fire extinguishers to be kept in “good and serviceable” condition. The final rule does not change the fire extinguishing equipment requirements for commercial vessels in 46 CFR part 25, subpart 25.30, or any other recreational vessel requirements.

Additionally, the Coast Guard will correct an incongruity in our vessel safety equipment regulations by shifting recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30 (Fire Extinguishing Equipment) to 33 CFR part 175 into a new subpart E (Equipment Requirements). This reorganization will not alter regulatory requirements for commercial vessels, but will separate recreational vessels from them.

The Coast Guard reviewed available data to determine if any governmental entity was complying with the requirements. Based on a thorough search of State regulations, the Coast Guard found no evidence of the States, the District of Columbia, or territories changing regulations as a result of the Fire Protection rule.¹⁸ Therefore, the Coast Guard determined that the States, the District of Columbia, and territorial jurisdictions will not need to revise their regulations and, thereby, incur any cost. Additionally, we received no public comment during the comment period for the proposed rule disagreeing with this determination.

¹⁸ Per Coast Guard subject matter expert review and communication with State and territorial jurisdictions.

The Coast Guard expects that there are no costs to the regulated public from this rule because this rule replaces the required monthly inspections and recordkeeping with a performance standard that vessel owners can meet in the manner least burdensome to each owner. The primary cost savings of this rule will be from alleviating the regulatory burden placed on the recreational vessel community by the Fire Protection rule, which prescribes compliance with the NFPA 10 inspection, maintenance, and recordkeeping requirements for portable fire extinguishers; this rule replaces the current prescriptive requirements with a performance standard. Table 2 presents a summary of the impacts of this final rule.

Table 2: Summary of Impacts of the Final Rule

Category	Summary
Applicability	Recreational vessels with propulsion machinery operating in domestic waters are no longer required to comply with the NFPA 10 fire extinguishing equipment requirements.
Affected population	11,052,684 recreational vessels with propulsion machinery operating in domestic waters that are required by existing Coast Guard regulations to carry portable fire extinguishers; 50 States, District of Columbia, and 5 territories that enforce boating safety requirements.
Costs	No Cost
Cost Savings	Removes the NFPA 10 inspection, maintenance, and recordkeeping requirements for recreational vessels required to carry portable fire extinguishers onboard. Savings equate to 12 minutes per year per fire extinguisher, plus travel time when the vessel is not in use. We do not quantify the cost savings because we do not have information on the number of fire extinguishers per vessel or how many recreational vessel owners have complied with the current NFPA 10 requirements; as a result, we leave this as an unquantified cost savings.
Benefits	Maintains safety preparedness standards while reducing prescriptive burdens, allowing recreational vessel owners and operators to meet the safety requirements in the way best suited for each owner/operator. Additionally, by moving from a prescriptive requirement to a performance standard, this rule maintains safety preparedness standards while allowing recreational vessel owners and operators to meet the safety requirements in the way best suited for each owner/operator. Shifts recreational vessel fire extinguishing equipment requirements from 46 CFR subpart 25.30 to 33 CFR part 175, subpart E, creating a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and those intended for recreational vessels. Removes COMDTINST M16714.3 which is no longer published. This change reduces confusion in reading the regulatory text.

Affected Population

The affected population consists of recreational vessels subject to the NFPA 10 requirements under the current 46 CFR part 25, subpart 25.30 and the 50 states, the District of Columbia, and 5 territories. The Coast Guard used recreational vessel population data from the Coast Guard Office of Auxiliary and Boating Safety's document titled, *2013 Recreational*

Boating Statistics, for the 2016 Fire Protection rule’s RA to estimate the affected population.¹⁹ For this rule’s analysis, the Coast Guard is using the most recently published data from the *2019 Recreational Boating Statistics* to identify a population of 11,052,684 registered motorized recreational vessels that will be affected by this final rule.²⁰

Comments

The Coast Guard received 14 comments on the NPRM.²¹ We addressed comments earlier in the preamble (see section IV). Some comments dealt with economic issues or with the regulatory analysis of the rulemaking; we discuss these comments in this section.

We received few comments regarding the RA or economic issues. Commenter USCG-2018-0099-0015 wrote, “Brief, monthly inspections are not a burden. Many recreational boats are not in use for the full 12 months of the year so a monthly inspection only would take place perhaps 6 or 8 times a year.” We note that the monthly inspection requirement of NFPA 10 does not provide exceptions for when a boat is not in use; however, 12 minutes is an estimated average and we recognize that some people may spend more time and some people may spend less time on these requirements (see also our response in the *Cost Savings* section of the regulatory analysis of this document for additional information on the burden estimate). Commenter USCG-2018-0099-0015 also wrote, “Perhaps the requirement for recordkeeping should be excused but the multiple use of the word burden in the Federal Registers Request for Comment is not at all appropriate when it comes to the fire protection preparations for a recreational boat owner. Inspecting an important piece of marine safety gear is not a burden for a prudent boat owner/operator.” The Coast Guard uses the term of art “burden” as defined in the

¹⁹ Recreational Boating Statistics 2013, table 37 (available at: <https://www.uscgboating.org/assets/1/AssetManager/2013RecBoatingStats.pdf>).

²⁰ The NPRM utilized the Recreational Boating Statistics 2016, table 37, which are available at: <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2016.pdf>. This final rule uses the most recent published Recreational Boating Statistics 2019, table 37, which is available at: <https://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2019.pdf>.

²¹ We received 15 submittals, but comment USCG-2018-0099-0017 was a duplicate of comment USCG-2018-0099-0015.

Paperwork Reduction Act.²² Keeping the requirement for inspections without a requirement to record them does not yield greater safety to vessel owners or the public. The final rule establishes performance requirements to ensure the equipment is available in appropriate condition.

Commenter USCG-2018-0099-0004 wrote, “Fire extinguishers (both portable and fixed automatic for engine rooms) still need to be inspected at least annually. Without annual inspections the extinguisher could be inoperable without the vessel owners [sic] knowledge.” The Coast Guard chose not to follow this recommendation because it would create an additional burden for vessel owners. And we believe the final rule’s requirement for “good and serviceable” condition would address safety concerns.

We, therefore, adopt the methodology and assumptions for the costs, cost savings and benefits from the NPRM as final. However, we have updated the analysis with a more current estimate of the affected population.

Cost and Cost Savings Analysis

This final rule proposes 20 changes to the fire extinguishing equipment regulations in 33 CFR part 175, subpart E, and 46 CFR part 25, subpart 25.30. These changes remove the recreational vessel fire extinguishing equipment regulations from 46 CFR part 25, subpart 25.30 (Fire Extinguishing Equipment) to a new subpart E in 33 CFR part 175. This change will include the addition of a new section 175.301 to specify the applicability of subpart E to recreational vessels. It also will include new sections 175.305, 175.310, 175.315, 175.320, 175.380, and 175.390 to reflect requirements previously applied by 46 CFR subpart 25.30, but excluding those that require recreational vessel owners and operators to follow the monthly visual inspection, annual maintenance, and recordkeeping requirements of NFPA 10.

Overall, there are no costs to the regulated public due to these changes to the regulatory text. We describe the costs, cost savings, and qualitative benefits of these in table 3.

²² 44 U.S.C. 3502(2).

Table 3: Assessment of Impacts (Costs, Cost Savings, and Benefits) of the Final Rule to the Regulated Public

Existing 46 CFR Part 25 §	New 33 CFR Part 175 §	Description of Change	Impact
<i>Definitions</i>			
§ 25.30-1 (b) & (c)	§ 175.3	Add the definition of <i>Model Year</i> to the section. This change allows the recreational boating community to more easily identify their vessel requirements and aligns with industry and market naming practices.	No cost. Qualitative benefit from the elimination of confusion of recreational boat owners attempting to locate the manufacturing date of their boat.
<i>Applicability</i>			
§ 25.30-1	§ 175.301	Incorporate existing text from 46 CFR 25.30-1, with new text to clarify the applicability of this subpart to recreational vessels with propulsion machinery only.	No cost.
<i>General Provisions</i>			
§ 25.30-5(a)	§ 175.305	Incorporate existing text from 46 CFR 25.30-5(a), with text edits to clarify approved equipment must be approved by the Commandant (CG-ENG-4). Removes reference to COMDTINST M16714.3 (Series), which has been cancelled.	No cost, and a qualitative benefit from removing a COMDTINST that is no longer published. This change reduces confusion in reading the regulatory text.
<i>Portable Fire Extinguishers and Semi-Portable Fire Extinguishing Systems</i>			
§ 25.30-5(b)	§ 175.310(a)	Incorporate existing text from 46 CFR 25.30-5(b).	No cost.
§ 25.30-10(a)	§ 175.310(a)	Incorporate existing text from 46 CFR 25.30-10(a), with edits removing the requirement that the portable fire extinguishers be maintained, inspected, and recorded in accordance with NFPA 10. Add new text, extracted from relevant sections of NFPA 10, requiring that portable fire extinguishers must be accessible, have a good operating pressure, not be expired or previously used, and be maintained in “good and serviceable” working condition.	No cost.
§ 25.30-10(f)	§ 175.310(b)	Incorporate existing text from 46 CFR 25.30-10(f), with text edits for clarification.	No cost.
§ 25.30-10(g)	§ 175.310(c)	Incorporate existing text from 46 CFR 25.30-10(g).	No cost.
§ 25.30-10(h)	§ 175.310(d)	Incorporate existing text from 46 CFR 25.30-10(h)(1) – 25.30-10(h)(4), with edits changing the motorboat references to recreational vessel references.	No cost.
§ 25.30-10 (i)	§ 175.310(e)	Incorporate existing text from 46 CFR 25.30-10(i), with edits changing the motorboat references to recreational vessel references.	No cost.
§ 25.30-10(j)	§ 175.310(f)	Adopt existing text from 46 CFR 25.30-10(j).	No cost.
<i>Fixed Fire Extinguishing Systems</i>			
§ 25.30-15(a)	§ 175.315(a)	Incorporate existing text from 46 CFR 25.30-15(a) with text edits to clarify approved equipment must be approved by the Commandant (CG-ENG-4).	No cost.

§ 25.30-15(b)	§ 175.315(b)	Incorporate existing text from 46 CFR 25.30-15(b).	No cost.
§ 25.30-15(c)	§ 175.315(c)	Incorporate existing text from 46 CFR 25.30-15(c) with edits to update references from NFPA 13 to the 46 CFR source.	No cost.
<i>Fire Extinguishing Equipment Required</i>			
§ 25.30-20(a)	§ 175.320(a)	Incorporate existing text from 46 CFR 25.30-20(a)(1) and 25.30-20(a)(2), with edits changing the motorboat references to recreational vessels not more than 65 feet.	No cost.
Table 25.30-20(a)(1)	Table 1 to § 175.320(a)	Incorporate existing table 25.30-20(a)(1) from 46 CFR 25.30-20(a), with edits changing the table numbering for clarity.	No cost.
Figure 25.30-20(a)(1)	Figure 1 to § 175.320(a)(2)	Incorporate existing figure 25.30-20(a)(1) from 46 CFR 25.30-20(a), with edits changing the figure numbering for clarity.	No cost.
Figure 25.30-20(a)(2)	Figure 2 to § 175.320(a)(2)	Incorporate existing figure 25.30-20(a)(2) from 46 CFR 25.30-20(a), with edits changing the figure numbering for clarity.	No cost.
§ 25.30-20(c)	§ 175.320(b)	Incorporate existing text from 46 CFR 25.30-20(c)(1) – 25.30-20(c)(4), with edits changing the motor vessels references to recreational vessels over 65 feet, and text edits for clarity.	No cost.
Table 25.30-20(b)(1)	Table 1 to § 175.320(b)	Incorporate existing table 25.30-20(b)(1) from 46 CFR 25.30-20(b), with edits changing the table numbering for clarity.	No cost.
§ 25.30-20(c)	§ 175.320(b)	Incorporate existing text from 46 CFR 25.30-20(c), with edits changing the motor vessels references to recreational vessels over 65 feet.	No cost.
§ 25.30-20(a)(3), § 25.30-20(c)(5)	§ 175.320(c)	Combine the existing text from 46 CFR 25.30-20(a)(3) and 25.30-20(c)(5) into a new section that clarifies table 1 to 46 CFR 175.320(a) and table 1 to 46 CFR 175.320(b) containing the minimum number of portable fire extinguishers needed on a vessel.	No cost.
<i>Location and Number of Portable Fire Extinguishers Required for Vessels Constructed prior to August 22, 2016</i>			
§ 25.30-80	§ 175.380	Incorporate existing text from 46 CFR subpart 25.30-80 with updated references to table 1 to 46 CFR 175.320(a) and table 1 to 46 CFR 175.320(b).	No cost.
<i>Vessels Contracted prior to November 19, 1952</i>			
§ 25.30-90	§ 175.390	Incorporate existing text from 46 CFR 25.30-90 with updated references to the new 46 CFR 175 and text edits for clarity.	No cost.
<i>Edits to 46 CFR Part 25.30</i>			
§ 25.30-1	-	Edit and reorganize paragraph for clarity.	No cost.
§ 25.30-1	-	Remove applicability to non-commercial vessels.	For recreational vessel owners and operators, there is a cost savings of 12 minutes per fire extinguisher per year on board each recreational vessel.

Costs

The Coast Guard considered all potential costs of this final rule. We considered the possibility that the States, District of Columbia, and territorial jurisdictions may choose to update their statutes and regulations because of this final rule if they previously had changed their regulations to satisfy NFPA 10. However, based on a thorough search of the regulatory documents of the States, District of Columbia, and territories, the Coast Guard found no evidence of these jurisdictions changing their regulations to satisfy NFPA 10. Therefore, these changes will not incur any costs.

Cost Savings

The primary savings of this final rule stem from alleviating the regulatory burden that the Fire Protection rule placed on the recreational vessel community. We tried to capture the potential aggregate scale of this regulatory burden reduction on the affected population of recreational vessel owners, but enforcement and compliance data is nonexistent. As an alternative, we provided an individual level estimate for the cost savings to the affected population of recreational vessel owners. We can offer this estimate because individual recreational vessel owners within the affected population must currently comply with the NFPA 10 requirements imposed by the Fire Protection rule.

NFPA 10 has specific inspection requirements for both rechargeable and non-rechargeable portable fire extinguishers. Owners of vessels with non-rechargeable (disposable) fire extinguishers, commonly used in the recreational vessel community, are subject to a monthly visual inspection ensuring the portable fire extinguisher is available and still operational. They also must maintain records of their compliance by placing an initial in a logbook as confirmation of a visual inspection. Rechargeable portable fire extinguishers are not common in the 5-B size that is required for recreational boats and actively must be sought and bought from an industrial distributor.

Rechargeable portable units of this size tend to be special purpose extinguishers such as carbon dioxide or clean agent extinguishers commonly used in areas such as server rooms, not on

recreational boats, and come at a significantly higher price. Non-rechargeable or disposable portable units are intended for use by the public and are the primary type of fire extinguisher on recreational vessels. They are primarily marketed to the public because of their low operating and maintenance costs, low upfront cost, reliability as well as the ease of care, and wide accessibility to be purchased at retail stores. As a result, commercial vessel owners generally purchase rechargeable portable fire extinguishers, while recreational vessel owners purchase non-rechargeable units.

This rule replaces the required NFPA 10 monthly inspections and recordkeeping with a performance standard that vessel owners can meet in the manner least burdensome to each owner. Accordingly, we expect that this change will not impose any additional costs on recreational vessel owners. We estimate the savings to recreational boaters will stem from eliminating a recordkeeping burden. We estimate the recordkeeping takes 1 minute per month to complete for an annual total of 12 minutes per fire extinguisher.²³ It does not include the costs to the boater of traveling to the vessel when it is not in use. We did not estimate the travel costs because we do not have any data on the average travel time to their vessel when not in use. Additionally, we lack data on the number of months a vessel might be in use.

Data is not available on how many recreational vessel owners have complied with the current NFPA 10 requirements since 2016 because the Coast Guard does not track that information. We also have notified the States and territories about the NBSAC Resolution 2016-96-02. As a result, we acknowledge the nonzero probability that a given vessel owner may be complying. Therefore, this final rule may reduce the regulatory burden of the recordkeeping requirement for some recreational vessel owners. We do not have enough information to

²³ The value of a person's recreational time is dependent on a number of factors such as income, age, and employment status. Guidance for leisure time's value is available from the U.S. Department of Transportation Office of the Secretary memorandum on *Revised Departmental Guidance on Valuation of Travel Time in Economic Analyses* and may be found at <https://www.transportation.gov/office-policy/transportation-policy/revised-departmental-guidance-valuation-travel-time-economic>. With no data available on the affected population's income, the median income for the nation may be used as a proxy. This is a 12 minute reduction per fire extinguisher. We did not have the number of fire extinguishers per vessel. As a result, we did not quantify the value of time saved by this rule.

estimate the aggregate scale of this reduction. However, we provide an individual level estimate for the cost savings to the affected population of recreational vessel owners legally required to comply. We estimate 12 minutes per year per portable fire extinguisher (1 minute per month) as the average individual level cost savings.²⁴

Benefits

By moving from a prescriptive requirement to a performance standard, this rule maintains safety preparedness standards while allowing recreational vessel owners and operators to meet the safety requirements in the way best suited for each owner/operator. By shifting the recreational vessel fire extinguishing equipment requirements from 46 CFR part 25, subpart 25.30 to 33 CFR part 175, subpart E, this rule will create a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and those intended for recreational vessels. Additionally, we removed references to the outdated COMDTINST M16714.3, making the regulatory text easier to read and understand.

Alternatives

The final rule (the preferred alternative) will move the fire extinguishing equipment requirements for recreational vessels from 46 CFR part 25, subpart 25.30 to 33 CFR part 175, new subpart E. This will create a clear distinction between fire extinguishing equipment regulations intended for commercial vessels and those intended for recreational vessels. The final rule will remove all the NFPA 10 inspection, maintenance and recordkeeping requirements for recreational vessels. This change will result in cost savings in the form of time savings to recreational vessel owners of 12 minutes per year per fire extinguisher on recreational vessels, plus travel time when the vessel is not in use. It re-organizes the regulatory text to separate recreational vessel fire protection regulations from commercial vessel regulations and to

²⁴ This estimate comports with estimates found in OMB collections: 2105-0529, 1625-0079 and 1625-0063 as adjusted for complexity of the task.

consolidate recreational vessel fire extinguishing equipment requirements into one subchapter. Lastly, the final rule follows the NBSAC recommendation.

Within the Coast Guard's development of the final rule, we considered alternatives to determine if any of them could accomplish the stated objectives. Among these alternatives were the following:

Alternative 1: No-action

Under this alternative, recreational vessel fire protection rules would remain in 46 CFR subpart 25.30, and NFPA 10 would continue to apply to recreational vessels. The Coast Guard did not select this alternative because it maintains an unnecessary regulatory burden. It would also continue a situation that lacks regulatory clarity and creates confusion.

Alternative 2: Policy over Regulation

This alternative would create a new Coast Guard policy based on NBSAC's recommendation to end the applicability of NFPA 10 to motorized recreational vessels and outline fire extinguishing equipment standards. It would impose no new costs and would have no cost savings. The Coast Guard did not select this option because States adopt Coast Guard regulations, not Coast Guard policy recommendations. This alternative would not amend the current CFR and may cause confusion depending on the nature of implementation.

Alternative 3: Add Exemption from NFPA 10 Requirements

Under this alternative, the Coast Guard would have added language to 46 CFR part 25, subpart 25.30 explicitly stating that NFPA 10 does not apply to recreational vessels. However, this would remove fire equipment applicability for motorized recreational vessels owners. This change would also result in the lack of regulatory requirements for recreational vessels. It would impose no new costs. The Coast Guard did not select this option because this alternative may create a safety hazard for motorized recreational vessel owners.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether

this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The final rule alleviates the regulatory burden placed on 11,052,684 recreational vessels and will move fire extinguishing equipment requirements for recreational vessels from 46 CFR part 25, subpart 25.30 to a new subpart E (Fire Protection Equipment) in 33 CFR part 175. The Coast Guard’s economic analysis concluded that it expects these changes would not impose additional costs on any of the recreational vessels that comprise the affected population in this final rule because this rule replaces the required NFPA 10 monthly inspections with a performance standard that vessel owners can meet in the manner least burdensome to each owner. Additionally, this rule eliminates regulatory burdens from the NFPA 10 recordkeeping requirements, resulting in an estimated 12 minutes of time savings per recreational vessel owner per fire extinguisher, plus travel time when the vessel was not in use.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This final rule will call for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this final rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. The Coast Guard regulates recreational vessel safety, including firefighting equipment, under the authority contained in 46 U.S.C. 4302. Chapter 43 of 46 U.S.C. contains an express preemption provision for recreational vessel safety standards. Under 46 U.S.C. 4306, a State or political subdivision of a State may not establish, continue in effect, or enforce a law or regulation establishing a recreational vessel or associated equipment performance or other safety standard, or impose a requirement for associated equipment unless: (1) the standard is identical to a Coast Guard regulation prescribed under 46 U.S.C. 4302; (2) the Coast Guard specifically provides an exemption under 46 U.S.C. 4305; or (3) the State standard regulates marine safety articles carried or used to address a hazardous condition or circumstance unique to that State (as long as the Coast Guard does not disapprove). This final rule establishes minimum requirements, under 46 U.S.C. 4302, for fire extinguishing equipment for recreational vessels,

and, therefore, the States may not issue regulations that differ from Coast Guard regulations within the categories of safety standards or equipment for recreational vessels, except in the limited circumstances identified above. Therefore, this final rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this final rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under DHS Management Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

This rule is categorically excluded under paragraphs L52, L54, and L57 of Table 1 in Appendix A of DHS Directive 023-01 (series). The categorical exclusion (CATEX) L52 pertains to regulations concerning vessel operation safety standards; CATEX L54 pertains to regulations that are editorial or procedural, such as those updating addresses or establishing application procedures; and CATEX 57 pertains to regulations concerning manning, documentation, admeasurements, inspection, and equipping of vessels.

This final rule will update Coast Guard regulations pertaining to fire extinguishing requirements and the associated standards used by recreational vessels.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 175

Fire prevention, Marine safety.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1 and 175 and 46 CFR part 25 as follows:

Title 33—Navigation and Navigable Waters

PART 1—GENERAL PROVISIONS

Subpart 1.08—Written Warning by Coast Guard Boarding Officers

1. The authority citation for part 1, subpart 1.08, continues to read as follows:

Authority: 14 U.S.C. 503; 49 CFR 1.46(b).

2. In § 1.08-1, revise paragraph (a)(8) to read as follows:

§ 1.08-1 Applicability.

(a) * * *

(8) 46 CFR subpart 25.30, Fire Extinguishing Equipment and 33 CFR part 175, subpart E, Fire Protection Equipment;

* * * * *

PART 175—EQUIPMENT REQUIREMENTS

3. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1.

4. In § 175.3, add in alphabetic order a definition for “Model year” to read as follows:

§ 175.3 Definitions.

* * * * *

Model year means the period beginning June 1 of a year and ending on July 31 of the following year and being designated by the year in which it ends.

* * * * *

5. Add subpart E, consisting of §§ 175.301 through 175.390, to read as follows:

Subpart E—Fire Protection Equipment

Sec.

175.301 Applicability.

175.305 General provisions.

175.310 Portable fire extinguishers and semi-portable fire extinguishing systems.

175.315 Fixed fire extinguishing systems.

175.320 Fire extinguishing equipment required.

175.380 Condition and number of fire extinguishers required for recreational vessels built model year 2017 or earlier.

175.390 Condition and number of fire extinguishers required for recreational vessels built before model year 1953.

Subpart E—Fire Protection Equipment

§ 175.301 Applicability.

(a) This subpart applies to recreational vessels that are propelled or controlled by propulsion machinery.

(b) Recreational vessels constructed prior to August 22, 2016, will be deemed built before model year 2017 and must meet the requirements of 33 CFR 175.380.

(c) Recreational vessels constructed prior to November 19, 1952, will be deemed built before model year 1953 and must meet the requirements of 33 CFR 175.390.

§ 175.305 General provisions.

Where fire extinguishing equipment in this subpart is required to be of an approved type, such equipment must be approved as provided in 46 CFR chapter I, subchapter Q. A listing of current and formerly approved equipment and materials may be found on the internet at:

<https://cgmix.uscg.mil/equipment>. Each OCMI may be contacted for information concerning approved equipment.

§ 175.310 Portable fire extinguishers and semi-portable fire extinguishing systems.

(a) All portable and semi-portable fire extinguishers must—

(1) Be on board and readily accessible;

(2) Be of an approved type;

(3) Not be expired or appear to have been previously used; and

(4) Be maintained in good and serviceable working condition, meaning:

(i) If the extinguisher has a pressure gauge reading or indicator it must be in the operable range or position;

(ii) The lock pin is firmly in place;

(iii) The discharge nozzle is clean and free of obstruction; and

(iv) The extinguisher does not show visible signs of significant corrosion or damage.

(b) Vaporizing-liquid type fire extinguishers containing carbon tetrachloride, chlorobromomethane, or other toxic vaporizing liquids, are not acceptable as equipment required by this subpart.

(c) Portable or semi-portable extinguishers that are required by their name plates to be protected from freezing must not be located where freezing temperatures may be expected.

(d) The use of dry chemical stored pressure fire extinguishers not fitted with pressure gauges or indicating devices, manufactured prior to January 1, 1965, is permitted on board recreational vessels if such extinguishers are maintained in good and serviceable condition. The following maintenance and inspections are required for such extinguishers:

(1) When the date on the inspection record tag on the extinguishers shows that 6 months have elapsed since the last weight check ashore, then such extinguishers are no longer accepted as meeting required maintenance conditions until they are reweighed ashore, found to be in a serviceable condition, and within required weight conditions.

(2) If the weight of the container is 1/4 ounce less than that stamped on the container, it must be serviced.

(3) If the outer seal or seals (which indicate tampering or use when broken) are not intact, the boarding officer or marine inspector will inspect such extinguishers to see that the frangible disc in the neck of the container is intact; and, if such disc is not intact, the container must be serviced.

(4) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the extinguisher must be serviced or replaced.

(e) Dry chemical extinguishers, stored pressure extinguishers, and fire extinguishers without pressure gauges or indicating devices, manufactured after January 1, 1965, cannot be labeled with the marine type label described in 46 CFR 162.028-4. These extinguishers may be carried onboard recreational vessels as excess equipment, subject to paragraphs (a) and (b) of this section.

(f) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so that all portions of the space concerned may be covered.

§ 175.315 Fixed fire extinguishing systems.

(a) A fixed fire extinguishing system must be of a type approved by the Coast Guard under 46 CFR part 162.

(b) A carbon dioxide system must be designed and installed in accordance with 46 CFR part 76, subpart 76.15.

(c) An automatic sprinkler system must be designed and installed in accordance with 46 CFR 25.30-15(c).

§ 175.320 Fire extinguishing equipment required.

(a) *Recreational vessels 65 feet or less in length.* (1) A recreational vessel 65 feet or less in length must carry at least the minimum number of portable fire extinguishers set forth in table 1 to § 175.320(a)(1). A vessel less than 26 feet in length, propelled by an outboard motor, is not required to carry portable fire extinguishers if the construction of the vessel will not permit the entrapment of explosive or flammable gases or vapors.

Table 1 to § 175.320(a)(1)		
Length (feet)	Minimum number of 5-B portable fire extinguishers required ¹	
	If no fixed fire extinguishing system in machinery space	If fixed fire extinguishing system in machinery space
Under 16	1	0
16 or more, but less than 26	1	0
26 or more, but less than 40	2	1
40 or more, but not more than 65	3	2

¹One 20-B portable fire extinguisher may be substituted for two 5-B portable fire extinguishers.

(2) Figure 1 to § 175.320(a)(2) illustrates the conditions, identified by table 2 to § 175.320(a)(2), under which fire extinguishers are required to be carried on board. Figure 2 to § 175.320(a)(2) illustrates conditions, identified by table 3 to § 175.320(a)(2), that do not, in themselves, require that fire extinguishers be carried.

Figure 1 to § 175.320(a)(2)

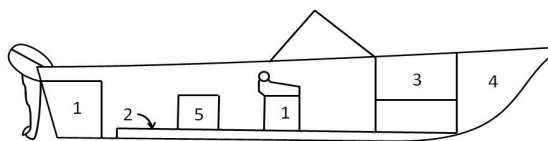


Table 2 to § 175.320(a)(2)

Location identified in Figure 1 to § 175.320(a)(2)	Condition requiring fire extinguishers
1	Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
2	Double bottoms not sealed to the hull or which are not completely filled with flotation material.
3	Closed living spaces.
4	Closed stowage compartments in which combustible or flammable materials are stowed.
5	Permanently installed fuel tanks.

Figure 2 to § 175.320(a)(2)

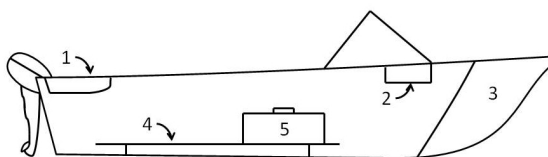


Table 3 to § 175.320(a)(2)

Location identified in Figure 2 to § 175.320(a)(2)	Condition requiring fire extinguishers
1	Bait wells.
2	Glove compartments.
3	Buoyant flotation material.
4	Open slatted flooring.
5	Ice chests.

(b) *Recreational vessels more than 65 feet in length.* (1) A recreational vessel more than 65 feet in length must carry at least the minimum number of portable fire extinguishers specified for its tonnage as set forth in table 4 to § 175.320(b)(1).

Table 4 to § 175.320(b)(1)		
Gross tonnage—		Minimum number of 20-B portable fire extinguishers
More than	Not more than	
-	50	1
50	100	2
100	500	3
500	1,000	6
1,000	-	8

(2) In addition to the portable fire extinguishers required by table 4 to § 175.320(b)(1), the following fire extinguishing equipment must be fitted in the machinery space:

(i) One 20-B fire extinguisher must be carried for each 1,000 brake horsepower of the main engines or fraction. However, not more than six such extinguishers are required to be carried.

(ii) On recreational vessels of more than 300 gross tons, either one 160-B semi-portable fire extinguishing system must be fitted, or alternatively, a fixed fire extinguishing system must be fitted in the machinery space.

(3) The frame or support of each 160-B semi-portable fire extinguisher required by paragraph (b)(2)(ii) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

(4) If an approved semi-portable fire extinguisher has wheels, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

(c) *Extinguishers with larger numerical ratings or multiple letter designations.*

Extinguishers with larger numerical ratings or multiple letter designations may be used to meet the requirements of table 1 to § 175.320(a)(1) and table 4 to § 175.320(b)(1).

§ 175.380 Condition and number of fire extinguishers required for recreational vessels

built model year 2017 or earlier.

Recreational vessels with a model year between 1953 and 2017 must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities that are less than what is required in table 1 to § 175.320(a)(1) or table 2 to § 175.320(b)(1) need not be replaced but must be maintained in good condition.

(b) All extinguishers installed after August 22, 2016, must meet the applicable requirements in §§ 175.305 through 175.320.

§ 175.390 Condition and number of fire extinguishers required for recreational vessels built before model year 1953.

A recreational vessel built before model year 1953 must meet the applicable number and general type of equipment provisions of §§ 175.305 through 175.320. Existing items of equipment and installations previously approved but not meeting the applicable requirements for type approval may be continued in service provided they are in good condition. All new installations and replacements must meet the requirements of §§ 175.305 through 175.320.

Title 46—Shipping

PART 25—REQUIREMENTS

6. The authority citation for part 25 is revised to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 2103, 3306, 4102, 4302; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2, paragraphs (II) (77), (92)(a), and 92(b).

7. Revise § 25.30-1 to read as follows:

§ 25.30-1 Applicability.

(a) This subpart applies to all vessels contracted for on or after August 22, 2016, except for recreational vessels as defined in 33 CFR 175.3, which are governed by fire safety equipment requirements at 33 CFR part 175, subpart E.

(b) All vessels contracted for before August 22, 2016, and after November 19, 1952, except recreational vessels as defined in 33 CFR 175.3, must meet the requirements of 46 CFR 25.30-80.

(c) All vessels, contracted for before November 19, 1952, except recreational vessels as defined in 33 CFR 175.3, must meet the requirements of 46 CFR 25.30-90.

Dated: October 12, 2021.

J.W. Mauger,
Rear Admiral, U.S. Coast Guard,
Assistant Commandant for Prevention Policy.

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